IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

WEDNESDAY, THE TWENTY FIRST DAY OF JULY
TWO THOUSAND AND FOUR

PRESENT

**THE HON'BLE DR JUSTICE G.YETHIRAJULU**

**WRIT PETITION NO : 12576 of 2004**

Between:

M/s. Sree Venkateswara Constructions, H.No. 8-3-168/1-75/A.1, Kalyan Nagar, Hyderabad, Rep. by Managing Partner, S.Venkateswarlu.

**..... PETITIONER**

AND

1 The Superintending Engineer PWD, R&B, Nizamabad Circle, Nizamabad.
2 The Chief Egnineer, NABARD, Errummanzil, Hyderabad.
3 The Executive Engineer, R&B, Sanga Reddy, Medak District.

**.....RESPONDENTS**

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the affidavit filed herein the High Court will be pleased to issue writ or order particularly one in the nature of writ of Mandamus declaring the action of the respondents purporting to recover seigniorage charge for ordinary earth and other material from out of the final bill amount to Rs. 7,90,149/- payable for value of work done amounting to Rs. 81,24,923/- covered under the agreement No. 41/2002-2003 dt. 15.5.2002 executed by the 1st respondent herein as illegal, arbitrary, injustice and without jurisdiction and consequently direct the respondent to clear the final bill to be paid to the petitioner with out deducting the purported seigniorage charges on ordinary earth for Rs. 1,41,804/- and pass such other relives as this Hon'ble Court deem fit and proper in the circumstances of the case and in the interests of justice.

**Counsel for the Petitioner: M/S C.KODANDA RAM**

**Counsel for the Respondent Nos.1 to 3: GP for Roads & Buildings**

The Court at the admission stage made the following Order :

**THE HON'BLE DR JUSTICE G.YETHIRAJULU**

**WRIT PETITION NO.12576 OF 2004**

**ORDER:**

This Writ Petition is filed seeking a Writ of Manadmus declaring the action of the respondents proposing to recover seigniorage charges for ordinary earth and other materials from out of the final bill payable for execution of contract work covered under agreement No.41/2002-2003 dated 15-05-2002 executed by the first respondent as illegal, arbitrary and without jurisdiction.

The petitioner submits that as per the terms of the agreement entered into between the parties, there is no mention regarding the collection of seigniorage charges in respect of ordinary earth excavated for the purpose of execution of contract work. But, contrary to the terms of agreement, the respondents are proposing to recover seigniorage in respect of ordinary earth from out of the final bill. Therefore, the petitioner contends that the proposed action of the respondents is illegal and without jurisdiction.

As per the terms of agreement, the respondents are entitled to recover the seigniorage charges on building stone including stone used for road metal concrete; Gravel and murram and sand. Since there is no mention regarding the collection of seigniorage charges in respect of the ordinary earth, the respondents are not entitled to recover it from the final bill.

At the instance of another contractor by name G.Krishna Reddy, this Court in W.P.No.7365 of 2004 passed an order dated 19-04-2004, directing the respondents not to recover any seigniorage charges on the ordinary earth. The present case also stands on similar lines.

Hence, the Writ Petition is allowed directing the respondents not recover any seigniorage charges from the petitioner on the ordinary earth, which is not covered by the terms of the agreement, either by recovering the amount or by way of adjusting the same in the final bill. No costs.

21-07-2004

Note:Furnish copy by 26.07.2004

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ASSISTANT REGISTRAR

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SECTION OFFICER

To

1 The Superintending Engineer PWD, R&B, Nizamabad Circle, Nizamabad.
2 The Chief Egnineer, NABARD, Errummanzil, Hyderabad.
3 The Executive Engineer, R&B, Sanga Reddy, Medak District.

4. 2CCs to GP for Roads and Buildings, High Court of A.P., Hyderabad (o.u.t)

5. 2CD copies